REMARKS

The Amendments

Claim 1 is amended to incorporate the substance of claims 4 and 5 therein; claims 4, 5, 8 and 17 are accordingly canceled. Claims 1, 7 and 19 are amended to address the 35 U.S.C. §112 rejection, as discussed below.

To the extent that the amendments avoid the prior art or for other reasons related to patentability, competitors are warned that the amendments are not intended to and do not limit the scope of equivalents which may be asserted on subject matter outside the literal scope of any patented claims but not anticipated or rendered obvious by the prior art or otherwise unpatentable to applicants. Applicants reserve the right to file one or more continuing and/or divisional applications directed to any subject matter disclosed in the application which has been canceled by any of the above amendments.

The Rejection under 35 U.S.C. §112, second paragraph

The rejection of claims 1-10 and 17-20 under 35 U.S.C. §112, second paragraph, is believed to be rendered moot by the above amendments and is otherwise respectfully traversed.

In claim 1, the "straight-chain or branched" language describing alkyl has been removed as it is superfluous. The term "alkyl" in general encompasses both straight-chain and branched alkyl. The term "alkyl with 1 to 25 C atoms" is not vague or indefinite to one of ordinary skill in the art. One of ordinary skill in the art would clearly know that if the alkyl has 1 or 2 C atoms it is impossible for it to be a branched alkyl. Thus, there is no confusion. One of ordinary skill in the art can easily and definitely identify the metes and bounds of the term "alkyl with 1 to 25 C atoms." Thus, it is definite under the law of 35

U.S.C. §112, second paragraph; see, e.g., Morton Int. Inc. v. Cardinal Chem. Co., 28 USPQ 1190 (Fed. Cir. 1993).

Similarly, claims 7 and 19 are amended since the term alkylene encompasses both straight or branched alkylene. The same reasoning in support of definiteness above applies. It is additionally pointed out that the term "alkylene" does not mean the group contains a double bond. Apparently, the term is being confused with "alkenyl" which indicates a -C=C- double bond. The term "alkylene" is well known in the art to mean a divalent alkyl group. Thus, an alkylene group does not require more than one carbon atom, i.e., the methylene group, $-CH_2-$, is an alkylene group.

The Rejection under 35 U.S.C. §102 over Hall

The rejection of claims 1-2, 4, 6 and 18 under 35 U.S.C. §102, as being anticipated by Hall (WO 97/16504) is believed to be rendered moot. The rejection was not applied to previous claim 5 and the subject matter of that claim is now incorporated into independent claim 1, upon which all other claims ultimately depend. The Hall compounds do not contain a polymerizable group, P, as defined in the current claims. Thus, there is no anticipation and the rejection under 35 U.S.C. §102 should be withdrawn. Also, Hall provides no suggestion of compounds having such a group and, therefore, also would not support a rejection under 35 U.S.C. §103.

The Rejection under 35 U.S.C. §102 over Onishi

The rejection of claims 1-2, 4-6 and 18 under 35 U.S.C. §102, as being anticipated by Onishi (U.S. Patent No. 5,750,213) is respectfully traversed.

The compounds of Onishi's formula (I) as set forth in the Office Action and elsewhere

in Onishi are not identical to the compounds of applicants' formula I nor do they even fall within the scope of applicants' formula I. The compounds of Onishi are terminated on the right side of formula (I) by a 2,3-difluoro-substituted phenyl ring. There is no substitution, i.e., only hydrogen, at the 4-position of the phenyl ring. Thus, Onishi does not disclose or encompass any compounds which are terminated by a 1,4-phenylene group with a non-hydrogen substituent at the 4-position.

Comparison of Onishi's formula (I) should be made to applicants' formula I wherein A^2 (required in the MG group) is 1,4-phenylene and is bonded to an R^1 group. Since the positions of substitution on the A^2 phenylene group are defined, i.e., 1 and 4, the R^1 group must be in the 4-position, i.e., para-position, to the balance of the compound. This positioning of the groups in the 1,4 position is demonstrated in all of the structures shown in applicants' specification, e.g., schemes 1-16 at pages 21-26.

Because the compounds of Onishi fail to fall within the scope of the instant claims, there is no anticipation and the rejection under 35 U.S.C. §102 should be withdrawn.

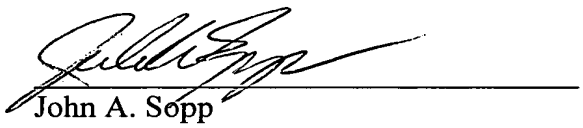
Further, Onishi fails to motivate one of ordinary skill in the art to modify its compounds in a manner which would suggest the compounds of applicants' claims. Onishi specifically requires the specific structure of the 2,3-difluoro-substituted phenyl ring at the terminal position. One of ordinary skill in the art would consider such specifically set forth structure to be a characterizing feature of the reference teaching and would not expect that modification by adding a further non-hydrogen substituent at the 4-position would result in compounds with similar properties and uses. Thus, there is no motivation for modification based on alleged similar structure. Obviousness based on close structural similarity arises from the expectation – evidenced in the art – that compounds with similar structure will have similar properties. In re Payne, 203 USPQ 245 (CCPA 1979); In re Gyurik, 201 USPQ 552

(CCPA 1979); and, In re Hoch, 166 USPQ 406 (CCPA 1970). There is no such evidence of such here and, in fact, the specific requirements of Onishi suggest the opposite. Additionally, see the discussion of the Onishi patent at page 5, line 30, to page 6, line 3, of the instant specification discussing the distinct properties of the Onishi compounds due to this distinction in structure. Thus, Onishi would also not provide a basis for rejection under 35 U.S.C. §103.

It is submitted that the claims are in condition for allowance. However, the Examiner is kindly invited to contact the undersigned to discuss any unresolved matters.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,



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